IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.340 OF 2001

IN

WRIT PETITION NO.1743 OF 2000

1.Municipal Corporation of Gr.Mumbai
and others. ...Appellants.

VS.

Ravindra R. Tondulkar ...Respondent

Mr.P.M.Palshikar with N.Shaikh, for Appellants.

Mr.E.P.Bharucha i/b. Aditya Chitale, for Respondent.

CORAM: D.K.DESHMUKH &
J.H.BHATIA, JJ.

DATED: 12th September,2007

P.C.:

1. By this appeal, the Municipal Corporation challenges the order dated 28.8.2000 passed in Writ Petition no.1743 of 2000 by the learned Single Judge. By that order the learned Single Judge has allowed the writ petition filed by the respondent no.1 who is in the employment of the appellant-Corporation and has set aside the order dated 23.9.1997 and the order

passed in Appeal dated 21.5.1999 imposing minor punishment on the respondent no.1. The learned Counsel appearing for Corporation submits that the reason given by the learned Single Judge for setting aside the order imposing punishment that proper procedure was not followed before imposing the punishment, is incorrect. He submits that if the employer wants to impose minor punishment then departmental inquiry is not necessary to be held and only summary inquiry is to be held. According to him, summary inquiry was held by the Corporation before imposing minor punishment on respondent no.1.

2. After having heard the learned Counsel appearing for respondent no.1, we find that there is considerable substance in the submission that is made by the learned Counsel appearing for the Corporation. However, in our opinion, in view of the order that we propose to make and the reasons for which we propose to make that order, it is not necessary for us to go into this matter any further. Suffice it to say that it appears that proper procedure was followed by the Corporation in imposing the punishment. In our opinion, however, the order of the learned Single Judge is not liable to be interfered with, considering the past as also the present record of

service of respondent no.1 as also the nature of misconduct alleged against the respondent no.1 and the delay involved in initiating and holding departmental inquiry. The learned Single Judge has also found that the departmental inquiry was started after the period of 10 years of commission of the alleged misconduct. In our opinion, considering that admittedly the respondent no.1 had unblemished record of service before the minor penalty was imposed on him and even thereafter, the record of service of respondent is unblemished, when admittedly there is considerable delay in initiating departmental inquiry, it will not be appropriate for us to interfere with the order of the learned Single Judge setting aside the minor punishment imposed on respondent no.1. In the result therefore, the appeal fails and is disposed of.

(D.K.Deshmukh, J.)

(J.H.Bhatia, J.)